

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION**

APPLETON PAPERS INC. and)	
NCR CORPORATION,)	
)	
Plaintiffs,)	
)	
v.)	No. 08-CV-16-WCG
)	
GEORGE A. WHITING PAPER COMPANY, <i>et al.</i> ,)	
)	
Defendants.)	

STIPULATION RE: OU1 DESIGN AND REMEDIAL ACTION AND OU1 INTEREST

In the interests of judicial economy, and to facilitate an efficient use of the Court's and the parties' time during the trial,

IT IS HEREBY STIPULATED by Defendants/Counter-Plaintiffs P.H. Glatfelter Company and WTM I Company (collectively, "Defendants"), and Plaintiffs/Counter-Defendants NCR Corporation and Appleton Papers Inc. (collectively, "Plaintiffs"), through their respective counsel, as follows:

1. The OU1 remedial design and remedial action work was performed in compliance with the OU1 AOC executed by WTM Company as well as the subsequent OU1 Consent Decree and Amended OU1 Consent Decree. The work performed by Defendants under the OU1 AOC, the OU1 Consent Decree and the Amended OU1 Consent Decree was approved by the Response Agencies.
2. Defendants and Plaintiffs stipulate and agree that the threshold legal question of whether the interest and other earnings on the OU1 escrow

account are recoverable, in whole or in part, by Defendants under their CERCLA Section 113 counterclaims will be briefed. Plaintiffs will jointly submit one brief and Defendants will jointly submit one brief. The briefs are limited to ten pages each and must be filed by midnight CST on Monday, March 12, 2012.

3. If the Court decides the threshold question of law in favor of Plaintiffs (i.e., that no part of the interest and earnings on the OU1 escrow account are recoverable under CERCLA Section 113), Defendants and Plaintiffs agree that the factual question of the total amount of interest and earnings on the OU1 escrow account will be moot. If the Court decides the threshold question of law partially or fully in favor of Defendants (i.e., that some or all of the interest and earnings on the OU1 escrow account are recoverable under CERCLA Section 113), Plaintiffs agree to make a good faith effort to resolve the factual question of the total amount of recoverable interest and earnings on the OU1 escrow account as set forth below.
4. Defendants and Plaintiffs stipulate and agree that the interest and other earnings on the OU1 escrow account are reflected on the bank statements for the escrow account, including the main account and its two subaccounts.
5. Defendants contend that the bank statements show that interest and other earnings on the main OU1 escrow account from May 2004, through February 2008, totaled \$3,423,076, and that one-half of that total amount

(\$1,711,538) is attributable to deposits by WTM and one-half of that total amount (\$1,711,538) is attributable to deposits by Glatfelter. WTM further contends that the bank statements show interest and other earnings on the WTM subaccount from April 2007, through December 2011, totaled \$527,768. Glatfelter further contends that the bank statements show interest and other earnings on the Glatfelter subaccount from January 2008, through December 2011, totaled \$237,334. Thus, WTM contends that its deposits into the OU1 escrow account have resulted in interest and other earnings totaling \$2,239,306. Glatfelter contends that its deposits into the OU1 escrow account have resulted in interest and other earnings totaling \$1,948,872.

6. Plaintiffs have not verified and may disagree with any of these amounts. If the Court determines that Defendants are entitled to recover the interest and other earnings on the OU1 escrow account from Plaintiffs, Plaintiffs agree that, within seven calendar days of such determination (the “Review Period”), they will verify that the amounts stated herein are the amounts reflected on the bank statements. If, within the Review Period, Plaintiffs verify that the amounts stated in this stipulation are accurate, they will so inform the Court and Defendants, and the amounts stated above in paragraph 2 will be added to any judgment against Plaintiffs. If, within the Review Period, Plaintiffs find a discrepancy, they will advise Defendants of the amount of the discrepancy. The parties shall attempt to resolve any dispute regarding the discrepancy amount and if agreement is

reached, shall advise the Court of the amount to be added to any judgment against Plaintiffs. In the event they are unable to resolve such dispute, they will submit their position and evidence on the discrepancy amount to the court for a determination of the amount to be added to any judgment.

Dated: February 28, 2012

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